

d.) **Remarks**

Claim 20, which does not appear to have been previously canceled, has been canceled, and claims 99-102, 104-114, and 116-121 have been amended to correct certain typographical errors and/or to clarify the invention. Support, if necessary, can be found throughout the specification and also in the existing claims. For example, support for the amendments to claim 101 can be found in the specification at page 16, lines 11-14.

Thus, claims 99-121, are presently pending. No new matter or new issues are introduced with these amendments.

**Remarks regarding 35 U.S.C. § 112, Second Paragraph**

Claims 99-121 stand rejected, under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. Applicant respectfully traverses this rejection.

With regard to claims 99 and 116, it is alleged that the phrase “high pressure” is alleged to be indefinite. This phrase has been deleted, in part, because it is clear to one of ordinary skill in the art that supercritical fluid extraction involves high-pressure and, therefore, the phrase is simply redundant. Thus, this aspect of the rejection is moot.

With regard to claims 105 and 110, it is alleged that the phrase “high recovery” is indefinite. This phrase has been deleted from the claims and, thus, this aspect of the rejection is also moot.

With regard to claim 110, it is alleged that this claim contains a typographical error. This error has been corrected as suggested by the examiner and this aspect of the rejection is moot.

With regard to claim 114, it is alleged that the phrase “analysis time” is unclear and further, that it is unclear how claim 114 relates to claim 110. Claim 114 has been amended to delete the phrase “analysis time” and further clarify that it is the supercritical fluid which contains the gradient, thereby connecting this aspect to claim 110. Thus, this aspect of the rejection is moot.

With regard to claim 117, it is alleged that this claim does not properly depend from claim 116. Claim 117 has been amended to provide proper antecedent support for all terms and, thus, this aspect of the rejection is moot.

Thus, the rejection of claims 99-121 under 35 U.S.C. § 112, second paragraph, is moot or overcome and applicant respectfully requests that it be withdrawn.

**Remarks Regarding 35 U.S.C. § 102(b)**

Claims 120 and 121 stand rejected, under 35 U.S.C. § 102(b), as allegedly anticipated by Lopez-Avila et al. ("Lopez"). Applicant respectfully traverses this rejection.

In the Office Action (Paper No. 21), the examiner notes that "a bioactive substance prepared by a method comprising the steps of claim 99, may encompass products made by processes which include steps resulting in products purified to homogeneity" (Office Action, page 4). Solely in an effort to expedite prosecution, this claim has been amended to incorporate the features of claim 99, but indicating that the method consists essentially of those steps.

Thus, the rejection of claims 120 and 121, under 35 U.S.C. § 102(b), is overcome and applicant respectfully requests that it be withdrawn.

**Remarks Regarding 35 U.S.C. § 103(a)**

A. Claims 99, 102-104 and 116-118 stand rejected, under 35 U.S.C. § 103(a), as allegedly obvious over Castor 709 (U.S. Patent No. 5,750,709), in view of Berger et al. ("Berger"). Applicant respectfully traverses this rejection.

In the Office Action (Paper No. 21), the Examiner states that a method involving supercritical fluid to obtain bioactive substances from kava root (claims 100 and 119) is novel

and not obvious over any of the cited references (Paper No. 21, page 12). In an effort to expedite prosecution, this aspect of the invention, which was in original 100 and 109, has been incorporated into all the independent claims including claims 99 and 116.

Thus, the rejection of claims 99, 102-104 and 116-118, under 35 U.S.C. § 103(a), is overcome and applicant respectfully requests that it be withdrawn.

**B.** Claims 99 and 101 stand rejected, under 35 U.S.C. § 103(a), as allegedly obvious over Castor 709 in view of Berger, and further in view of Bejar et al. ("Bejar"). Applicant respectfully traverses this rejection.

As stated above, in an effort to expedite prosecution, all independent claims including claim 99 has been amended to incorporate the aspect of original claim 100, namely a process directed to kava root, which is stated to be free of the prior art (*see* Paper No. 21, page 12).

Thus, the rejection of claims 99 and 101, under 35 U.S.C. § 103(a), is overcome and applicant respectfully requests that it be withdrawn.

**C.** Claims 105-115 stand rejected, under 35 U.S.C. § 103(a), as allegedly obvious over Lopez and Schwabe (U.S. Patent No. 5,296,224), in view of Castor 709 Castor 055 (U.S. Patent No. 5,440,055). Applicant respectfully traverses this rejection.

As stated above, in an effort to expedite prosecution, all independent claims including claim 116 has been amended to incorporate the aspect of original claim 119, namely a process directed to kava root, which is stated to be free of the prior art (*see* Paper No. 21, page 12).

Thus, the rejection of claims 105-115, under 35 U.S.C. § 103(a), is overcome and applicant respectfully requests that it be withdrawn.

## Conclusion

The application is in condition for allowance and the prompt issuance of a Notice of Allowance is respectfully requested. If there are any additional fees due with the filing of this Response, including any additional fees for a further extension of time, not herein accounted for, applicant respectfully requests that extension and also requests that any and all fees due be charged to Deposit Account No. 03-1952.

Respectfully submitted,  
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